HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25167 of 2006

Dated:04.12.2006

Between:

Smt.Bushara Begum and others.

…Petitioner

and

The State of A.P., and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25167 of 2006

ORDER:

The three petitioners filed the Writ Petition assailing the notice bearing Letter No.C/8611/06, dated 28.11.2006, issued by the Mandal Surveyor, Bandlaguda Mandal, requesting the petitioners and respondents 5 and 6 herein to attend to the work of demarcation of land in Survey Nos.103/4, 103/6 and 103/7 situated at Bandlaguda Village and Mandal on 02.12.2006 at 10.30 A.M. It is the case of the petitioners that the land admeasuring Acs.4.09 guntas in Survey Nos.103/14 and 103/7 of Bandlaguda Village was gifted to them, and are in continuous possession of the same. Respondents 5 and 6 attempted to trespass into the land claiming as General Power of Attorney holders of Smt.Syeda Binte Imani Jabri and Muneef Been Imani Jabri. The petitioners then filed O.S.No.759 of 2006 against those two persons and obtained *ad interim* injunction in I.A.No.3889 of 2006 on the file of the Court of the Principal District Judge, Ranga Reddy District. The petitioners allege that thereafter respondents 5 and 6 approached respondents 1 to 4 seeking survey and demarcation of the land, pursuant to which, the impugned notice is issued.

Learned Counsel for the petitioners submits that when there is a boundary dispute pending in civil Court, Survey Officer cannot conduct survey. Secondly, he would urge that there is no boundary dispute, whatsoever, between the land claimed by the petitioners and the land claimed by respondents 5 and 6, and therefore, survey, if any, is improper. The learned Assistant Government Pleader opposes the Writ Petition. He submits that under Section 10 of the Andhra Pradesh Survey and Boundaries Act, 1923 (for short 'the Act'), whenever a person approached for survey in case of boundary dispute, it shall be incumbent on the Survey Officer to conduct such survey after giving notice to the persons concerned. When the Mandal Surveyor issued notice pursuant to the statutory requirements, the same cannot be invalidated, nor the same is illegal. He also points out that even if a survey is conducted, such survey or proceedings thereto are appealable under Section 11 of the Act.

The petitioners question the impugned notice on the ground of jurisdiction. This Court, however, is not able to accept the submission. The suit is filed only for injunction, and pending the suit if a survey is conducted in accordance with Section 10 of the Act, the same cannot be faulted. According to the petitioners, Section 10 of the Act is available only when there is a boundary dispute and in the absence of such boundary dispute, survey cannot be taken up. They can always take up such objection before the respondents either before conducting survey or at the time of preparation of panchanama. This Court is not inclined to interfere at the stage of survey.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

_____

(V.V.S.RAO, J)

04.12.2006
vs